



Fact Sheet for the Issuance of AZPDES De Minimus Discharge General Permit AZG2004-001

February 6, 2004

Facilities: AZPDES General Permit for De Minimus Discharges in Arizona, except for those in Indian Country.

Background: Under Arizona Revised Statutes (A.R.S.) Title 49, Chapter 2, Article 3.1 it is unlawful to discharge to a "navigable water or waters of the U.S." except in accordance with an Arizona Pollutant Discharge Elimination System (AZPDES) permit. [Note the AZPDES authorizing statute uses the term "Navigable Waters" which is defined as equivalent to the waters of the U.S. However, because the term 'navigable waters' can be confusing to the general public (i.e., the definition of 'navigable waters' also includes ephemeral washes, intermittent streams, playas, and wetlands, that may not be able to be traveled by conventional vessels), this permit generally references discharges to waters of the U.S.] Arizona's regulations, Arizona Administrative Code (A.A.C.) R18-9-C901, authorizes the issuance of "general permits" to categories of discharges located within the same geographic area, that:

- Involve the same or substantially similar types of operations;
- Discharge the same types of wastes or engage in the same types of sludge use or disposal practices;
- Require the same effluent limitations, operating conditions, or standards for sludge use or disposal;
- Require the same or similar monitoring; and
- Are more appropriately controlled under a general permit than under an individual permit.

The Arizona Department of Environmental Quality (ADEQ) has developed this general permit to permit a range of De Minimus discharges under one permit. The use of a general permit will allow ADEQ to provide coverage in a timely manner for discharges which, if properly managed, will not have significant impacts on water quality or the environment, but have been determined to require a permit.

The following provides a fact sheet for the proposed AZPDES general permit for De Minimus discharges in Arizona except for Indian Country. Hereinafter, the terms "permit" or "De Minimus general permit" or "DGP" will be used. Note also that the permit references various federal regulations. These regulations have been incorporated by reference into the state AZPDES rules in the Arizona Administrative Code (A.A.C.) R18-9-A905. As an aid to reviewers, however, the permit cites the federal regulations where specific regulatory language can be found.

I. Introduction

ADEQ is issuing the De Minimus general permit that authorizes the discharge of low levels of pollutants from a number of discharging activities that are either of relatively small volumes or are discharged over a short period of time (generally less than 30 days) and which contain pollutants which can be reduced to levels below the applicable surface water standards (18 A.A.C. 11, Article 1) through the use of low level treatment technologies and/or Best Management Practices (BMPs). (See Part VI.C of this fact sheet.

II. Activities Eligible for Authorization under the De Minimus General Permit

The primary intent of this general permit is to cover De Minimus discharges from potable water systems operated by municipalities and water suppliers; discharges associated with the water well construction, rehabilitation and development industry (e.g., well drillers, pump installers); and miscellaneous De Minimus activities including discharges of groundwater, surface water or potable water associated with structural integrity testing of new pipelines, tanks or other vessels; construction, foundation and subterranean seepage dewatering, and building and street wash water. The permit also authorizes discharges of residential non-contact cooling water, and discharges from swimming pools, charitable noncommercial car washes and certain installation and maintenance activities associated with reclaimed water transport systems. After evaluating these types of discharges it was found that:

1. They involve the same types of pollutants, specifically total suspended solids, total dissolved solids, oil and grease, pH, bacteria, organic debris, chlorine and potential for erosion;
2. Operating conditions or Best Management Practices (BMPs) required to eliminate or reduce the pollutants are similar; (See Section VI.C. of this fact sheet and Section IV.D. of the permit.)
3. The monitoring requirements will be similar when discharged to waters with the same designated uses;
4. The discharges are generally infrequent, of low volume or with short planning times; this along with the items above make them more appropriately controlled under a general permit than under individual permits.

III. Authorization Under This General Permit

- A. Permit Area.** This permit will be for all De Minimus discharges in the State of Arizona, except for those in Indian Country. ADEQ does not have authority for such discharges and applicants must pursue permitting through EPA Region 9 or other appropriate permitting authority.

Each permittee operating under this permit will be assigned an Authorization Number when his or her Notice of Intent (NOI) is processed, (unless an NOI is not required under Part II.A.1.a. of the permit). Note that the authorization number is not an AZPDES Permit Number; rather, the assigned number is for tracking purposes only. The actual permit number is AZG2004-001.

- B. Eligibility and Allowable De Minimus Discharges.** This permit allows the authorization of all De Minimus discharges except those excluded under Limitations on Coverage (Part I, Section C of the DGP). Coverage under the DGP is authorized for:

1. Discharges associated with the operation of potable water systems;
2. Discharges associated with water well construction, maintenance, rehabilitation and development or water supply or quality investigations;
3. Discharges associated with structural integrity (hydrostatic) testing of new pipelines, pipelines associated with the installation and maintenance of sewer or reclaimed water transport systems. If the discharges are to an ephemeral, effluent dependent, or canals without drinking water source (DWS) receiving water, Class B+ or A+ reclaimed water may be used for these tests.
4. Discharges of groundwater, surface water or potable water associated with the testing

of certain pipes, tanks, or vessels that have been previously used to transport oil and gas, provided that the discharge is first contained in accordance with A.A.C.R18-9-B301 and the water quality has been found to meet all applicable surface and aquifer water quality standards, and approval for removal of the test water has been granted by ADEQ as required by A.A.C. R 18-9-B301(C)(5). NOIs submitted for authorization of these discharges must include the approval letter from ADEQ.

5. Discharges from reclaimed water systems (with Class B+ or A+ reclaimed water) relating to post repair flushings and pressure releases when the discharges are to an ephemeral, effluent dependent, or canals without drinking water source (DWS) receiving water.
6. Discharges associated with subterranean dewatering, except for discharges from vaults (which may be approved under the case specific approval condition of Part I.B.7 of the permit) or mining activities;
7. Discharges of residential non-contact cooling water, when discharges are to ephemeral, canals without DWS, or effluent dependent receiving waters;
8. Discharges of building and/or street wash water when only biodegradable soaps and/or water are used and the discharge is to an ephemeral, effluent dependent, or canals without drinking water source (DWS) receiving water;
9. Discharges from charitable noncommercial car washes when only the exterior of the vehicles are being washed with biodegradable soaps and/or water and the discharges are to ephemeral or canals without DWS receiving waters;
10. Discharges from drainage from swimming pools, when the discharge is to canals without DWS, or ephemeral receiving water.

Discharges from mobile car washes were removed from eligibility in the final permit because they would not meet the requirements of A.A.C. R18-9-D303 [Type 3.03 General Aquifer Protection Permit (APP).]

This permit does not provide coverage of releases from pipeline breaks or other spills. ADEQ considers releases from pipeline breaks inappropriate for routine permit coverage. When leaks or spills occur, they should be promptly reported and remediated as necessary. The ADEQ response to such events is better evaluated based on particular circumstances such as the size, effect, and nature of the spill events as well as the discharger's response actions. Remediation efforts may be under agency oversight through voluntary or compliance actions. The agency may use enforcement discretion in responding to spill events.

IV. Obtaining Authorization Under this General Permit (Part II of the DGP)

- A. General.** For most eligible discharges, authorization to discharge under this permit is obtained by submitting a Notice of Intent (NOI) to ADEQ. (Discharges of residential non-contact cooling water, drainage from swimming pools, and discharges from qualifying vehicle washes are not required to submit NOIs, but must follow the applicable requirements of the general permit.)

Submission of a complete and accurate NOI (which in some cases includes submission of a Best Management Practices (BMP) plan) eliminates the need to apply for an individual permit for a regulated discharge, unless ADEQ specifically notifies the discharger that an individual permit application must be submitted.

Only NOI forms provided by ADEQ (or reproductions thereof) are valid. Applicants must be

aware that by signing and dating the form they certify that they understand and are willing to comply with all terms and conditions of the AZPDES De Minimus General Permit.

- B. Effective Date of Permit Coverage.** The effective date of authorization to discharge, after the Water Quality Division of ADEQ receives the NOI, varies depending on the designated uses of the waterbody receiving the discharge. (Designated uses for waterbodies in Arizona are given in 18 A.A.C. 11, Article 1, Table 1 and A.A.C. R18-11-105. Unique waters are listed in A.A.C. R18-11-112. Impaired waters are listed in Appendix D, Parts 4 and 5 of *The Status of Water Quality in Arizona-2002 Report*. Part 4 includes those waters for which a TMDL has been determined and Part 5 is a list of impaired waters for which a TMDL is required, but not yet completed. Additional waters have been added to these lists by EPA and future additions of the report may include other waters. For a complete list see the ADEQ website at <http://www.adeq.state.az.us/environ/water/assessment/305-02.html>.

Because of uncertainty expressed concerning the word 'received', the definitions specify how this term will be used and the acceptable mechanisms for delivery of an NOI to ADEQ. An authorization to discharge is not, however, automatic within the timeframes specified below if a submitted NOI is materially incomplete or incorrect or if discharge(s) is/are not eligible for coverage by the permit. At any point, ADEQ may deny coverage under this permit and require submittal of an application for an individual AZPDES permit based on a review of the NOI or other relevant information.

Unless an applicant is notified otherwise, authorization to discharge at a single location is effective as follows:

- For discharges to an ephemeral, canal without DWS, or effluent dependent water, 5 business days after receipt of a complete and accurate application;
- For discharges to a perennial, intermittent, or canals with DWS water, 30 business days after receipt of a complete and accurate application; and
- For discharges to a unique or impaired water, when the applicant receives written confirmation from ADEQ that the authorization is granted.

This permit is constructed to allow operators of systems that supply water, reclaimed water, oil or gas to apply for areawide coverage of discharges throughout their service areas or distribution systems. Authorization for these multiple discharges is effective:

- 30 business days after receipt of the NOI by ADEQ, if for discharges that are not within 1/4 mile of unique or impaired waters, and
- Only after receipt of written authorization from ADEQ for any discharges that are to or within 1/4 mile of a unique or impaired water.

- C. Termination of Coverage.** Permittees must submit a complete Notice of Termination (NOT) that is signed according to Part V, Section K of the permit when one or more of the conditions contained in Part II, Section C.2 of the permit have been met. NOTs must be submitted using the form provided by ADEQ (found as an attachment to the permit), or a reproduction thereof, and sent to the address specified on the form. NOTs provide ADEQ with a useful mechanism to track the status of projects which are actively covered by the permit.

The NOT must be filed within 30 days after the permittee:

- Permanently ceases the De Minimus discharge;
- Obtains coverage under an individual permit;

- Obtains coverage under an alternative general permit; or
- Transfers ownership of, or responsibility for, the discharging facility.

The NOT must be submitted to the address listed in Part III, Section C of the permit.

D. Who needs to obtain coverage.

This permit is intended to provide coverage for any of the eligible discharges listed in section III.B. above that have potential to reach a water of the U.S. Discharges which go to retention basins outside of waters of the U.S. and have no potential to reach a water of the U.S. do not require coverage. Discharges already covered under another AZPDES permit also do not require coverage under the DGP. This includes eligible discharges which are covered under the general permits for construction or industrial stormwater or individual AZPDES permits.

Eligible discharges within regulated Municipal Separate Stormwater Sewer Systems (MS4) with potential to reach a water of the U.S. or which are required by the MS4 owner to obtain AZPDES coverage must obtain authorization under the DGP or other AZPDES permit. A list of regulated MS4s can be found on the ADEQ website:

<http://www.adeq.state.az.us/enviro/water/permits/stormwater.html#ms4>

E. Coordination with operators of MS4s, canals, or privately owned conveyances

1. Applicants with discharges which have potential to reach a MS4, canal, or privately owned conveyance must send a copy of the NOI submitted to ADEQ to the operator of the conveyance.
2. When an authorized discharger which has a potential to reach a MS4, canal, or privately owned conveyance is terminated the operator of the discharge must send a copy of the NOT submitted to ADEQ to the operator of the conveyance.
3. If ADEQ denies authorization of a NOI for a discharge which has potential to reach a MS4, canal, or privately owned conveyance, ADEQ intends to send a copy of the denial letter to the operator of the conveyance.

V. Notice of Intent Requirements (Part III of the DGP)

An NOI must be submitted by all persons seeking authorization for De Minimis discharges from an eligible activity, except for discharges of non-contact cooling water, qualifying vehicle washes, building wash water, street wash water or swimming pools to ephemeral, canals without DWS or effluent dependent waters. The NOI form requires the following information:

- The name, position, address, and telephone number of the applicant, or the applicant's designee, if appointed;
- The name, address, and telephone number of the contact person, if different than the person listed in Part III, Section B.1;
- The name and address of the facility/site location;
- The name and address number of the owner of the property on which discharge will occur, if different than the person listed in Part III, Section B.1 or 2;
- The latitude and longitude of the point(s) of discharge;
- Whether the discharge is on, or has potential to reach, Indian Country lands;

- Whether the discharge is within, or has potential to reach, a regulated Municipal Separate Storm Sewer System (MS4), canal, or any privately owned conveyance;
- The issuance number or permit number for any individual or general environmental permits currently held by the applicant related to the operations that discharge;
- Complete description and characterization of the proposed wastewater discharge(s), including:
 - The purpose of the discharge activities;
 - The name and description of the discharge activities and identification of any added chemicals or solvents used;
 - Any known or suspected constituent of concern in the discharge;
 - A description of the proposed treatment systems (if applicable);
 - The estimated average and maximum daily flow rates;
 - The estimated total volume to be discharged;
 - The type and location of the discharge(s);
 - The date(s) of the discharge;
 - The approximate frequency and duration of the discharge(s);
 - The receiving streams or waterbodies;
 - If the receiving water is an ephemeral stream, the name of the closest perennial or intermittent water and the approximate distance from the discharge point to that water; and
 - If the discharge is to a MS4, canal, or other privately owned conveyance, the owner's name.
- A legible, scaled map showing the path from the point of initial release and the point of discharge to a water of the U.S. If the discharge is conveyed to the water of the U.S. through a MS4, canal, or other stormwater conveyance, the point where the discharge enters the conveyance should also be shown. If the discharge point is less than 1/4 mile upstream of a water of the U.S. with a different classification (ephemeral, canal without DWS, edw, perennial, intermittent, canal with DWS, unique or impaired), show the location where the classification changes. Maps may be obtained from local map stores or various websites including: <http://mapping.usgs.gov/partners/viewonline.html>;
- Information concerning the BMPs implemented for the discharge or a copy of the BMP plan, as applicable;
- The name, title, and signature of the official certifying the NOI information and compliance with this permit.

The NOI must be signed in accordance with the signatory requirements of 40 CFR 122.22. A complete description of these signatory requirements is provided in Part V.G of the general permit.

VI. Special Conditions (Part IV of the DGP)

A. Permittee.

1. A permittee shall take all reasonable steps to minimize or prevent any discharge that has a potential to adversely affect human health or the environment.
2. A permittee shall take all reasonable steps to minimize any adverse impact to receiving waters resulting from noncompliance with any discharge limitations specified in this general permit, including the accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

3. An authorization to discharge wastewater under this general permit is not transferable to any person. Submittal of a new NOI (unless the discharge does not require an NOI submittal) is required when the operation or ownership of the discharging facility changes.
4. A permittee seeking to discharge to a public or privately owned storm sewer, drainage system, canal, or other conveyance shall obtain permission from the owner prior to discharge.

B. Discharge Limitations.

Discharges are required to meet all standards applicable to the receiving waterbody.

C. Best Management Practices (BMPs) Plans.

The permit requires most permittees to develop and implement a BMP plan. The BMPs to be developed are to control solid and liquid pollutants in the discharge, for the prevention of erosion, scour or sedimentation due to the discharge and to minimize the duration of discharge for unplanned discharges (line breaks, leaks, or overflows). Part IV.D of the permit specifies site specific factors which must be considered when developing a BMP plan.

The permittee must sign the BMP Plan in accordance with Part V.K of the DGP and retain the plan on-site or other location easily accessible during normal business hours. Upon request, the permittee shall provide a copy of the BMP Plan to ADEQ. If the department makes a written request for the Plan, the permittee shall provide a copy within 14 calendar days.

Applicants for discharges to ephemeral, canals without DWS, and effluent dependent waters do not need to submit the BMP plan, but must develop and implement it prior to discharge. Persons who wish to discharge to perennial, intermittent, unique or impaired waters, must submit the BMP plan with the NOI.

The plan must be revised if:

- A change in design, operation, maintenance procedure, etc., occurs that may cause a significant increase in pollutants in the discharge;
- Inspections indicate the BMP Plan is ineffective in eliminating or significantly reducing pollutants in the discharge; or
- The person responsible for implementing the BMP plan changes.

D. Monitoring and Reporting.

Monitoring and Reporting requirements are given in Part IV.E. and Appendix A, Tables A-D. The Appendix A, Monitoring and Reporting Program gives the requirements for analytical sampling, field sampling, record keeping, and reporting applicable to all discharges.

Monitoring parameters and frequency are dependent on the source of the discharge and the receiving waterbody. Tables A-D give minimum monitoring requirements for ephemeral and canals without DWS receiving waters, effluent dependent receiving waters, perennial, intermittent and canals with DWS receiving waters, and unique or impaired receiving waters, respectively.

Records of all monitoring must be maintained for 3 years from the date of permit expiration or the date an NOI is submitted and made available to ADEQ on request. In addition, results of all monitoring for discharges that last longer than 4 consecutive days or discharge greater

than 0.25 million gallons in any one day must be submitted to ADEQ with the NOT, or at the end of the 4th year of the permit for areawide authorized discharges.

The reporting form to be used is shown in Appendix E.

The permittee must report planned changes, anticipated noncompliance, and monitoring. The permittee must report to ADEQ any noncompliance which may endanger health or the environment within 24 hours. The permit gives a phone and fax number to use for 24 hour reporting. A written report must be submitted to follow up within 5 days. Other noncompliance with the permit must also be reported. If the permittee becomes aware that there was incorrect or inadequate information on the NOI that was submitted, he must contact ADEQ and report that information.

VII. Standard Permit Conditions (Part V of the DGP)

Federal regulations require all AZPDES permits to contain the standard conditions specified at 40 CFR 122.41 (The provisions for bypass and upset have been removed as they are applicable mainly to treatment plants where technology based effluent limits apply and are not applicable to the DGP.) This section of the permit describes those conditions.

- A. Duty To Comply.** The permittee must comply with all conditions of this permit. A permittee not fulfilling his or her obligations, as agreed upon by signing the NOI, is considered in violation of state statutes, as well as the Clean Water Act, and is grounds for injunctive relief, substantial monetary penalties, incarceration, changes or terminations to the permit, or denial of permit renewal. The permit also does not authorize any discharge related condition (i.e. odors, vectors, etc.) that may be otherwise determined a nuisance per A.R.S § 49-141.
- B. Duty to Reapply.** If the permittee, after reissuance of the general permit, desires to continue discharging activities, he/she must reapply for and obtain a new authorization. For general permit coverage, this requires the permittee to comply with the terms of the reissued permit. If the general permit expires and the permit is not reissued, the expired permit is automatically extended. Permittees with authorization continue to be covered until the new permit is issued or the existing permit is revoked.
- C. Need to Halt or Reduce Activity Not a Defense.** The permittee facing enforcement action may not use as a defense the reasoning that compliance could only be achieved by halting or reducing the permitted activity.
- D. Duty to Mitigate.** The permittee is required to take all reasonable steps to prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.
- E. Proper Operation and Maintenance.** The permittee must properly operate and maintain all equipment and treatment systems used by the permittee for compliance with the terms of the permit. This includes sediment and erosion controls and other BMPs implemented at the site to achieve compliance with the terms of the permit. The permittee must provide appropriate laboratory controls and quality assurance procedures as necessary. Backup systems are required when needed to ensure compliance.
- F. Permit Actions.** ADEQ may modify, revoke and reissue, or terminate this permit for cause.
- G. Property Rights.** This permit does not convey any property rights of any sort, or any exclusive privilege. Injury to private property or invasion of personal rights is also not authorized under this permit nor any infringement of federal, state, or local laws or regulations.

- H. **Duty to Provide Information.** The permittee must transmit any information needed to determine compliance with the permit or to modify the permit.
- I. **Inspection and Entry.** The permittee must, upon presentation of valid credentials by ADEQ or its representative, allow entry into the premises where the regulated activity and/or records are present. ADEQ must have access to view and to be able to make copies of any required records, inspect facilities, practices, operations, and equipment, and sample or monitor at reasonable times.
- J. **Monitoring and Records.** Any samples required to be taken must be representative of the monitored activity. Records must be retained for 3 years from permit expiration or the date an NOT is filed, subject to extension by ADEQ. Monitoring records must identify the sampling dates and personnel, the sample location and time, and the analytical techniques used and corresponding results. Falsification of results is a violation.
- K. **Signatory Requirements.** Applications, reports, NOIs, NOTs, or other information submitted to ADEQ must be signed and certified by a responsible officer, a general partner or proprietor of a partnership, or a principal executive officer or ranking elected official for a municipality, state, federal, or other public agency. Knowingly making false statement, representations, or certifications is subject to penalties. Other than for applications and NOIs, these reports may be signed by a duly authorized representative. A person is considered a duly authorized representative only if the authorization is made in writing by such person and submitted to ADEQ. A duly authorized representative may be either a named individual or any individual occupying a named position. The duly authorized representative is not the same as the permittee, but the legally bound representative of the operator.
- L. **Reopener.** The Department can choose to reopen and modify this permit in the event of new regulatory requirements.
- M. **Other Environmental Laws.** Compliance with this permit does not give permission to violate other environmental rules or statutes. [All AZPDES discharges are required to have either an individual or general Aquifer Protection Permit (A.R.S. § 49-241(B))]
- N. **State or Tribal Law.** Compliance with this permit does not give permission to violate other laws.
- O. **Severability.** If any part of this permit is determined to be invalid in a subsequent administrative or legal process, the remainder of the permit will not be affected.
- P. **Requiring Coverage under an Individual Permit or an Alternative General Permit.** Based upon a number of different situations (e.g., applicable numeric effluent limitations resulting from a TMDL, or a determination that the operator has the potential to cause or contribute to a water quality standard exceedance), ADEQ may determine that coverage under an individual permit is necessary. If a permittee is currently discharging under this general permit and ADEQ determines that individual coverage is required, written notification of this required change in permit coverage, including reasoning for this decision, an application form, and a deadline for filing the application, will be provided to the permittee.
- Q. **Request for an Individual Permit.** An operator may apply for an individual permit rather than apply for coverage under this general permit. An individual application must be submitted for coverage under such a permit with reasoning supporting the request. If such reasoning is considered adequate by ADEQ, the request will be granted and an individual permit issued. If an individual permit or alternative AZPDES permit is issued to the permittee currently covered under this general permit, coverage under the general permit is terminated on the effective date of the new permit. Alternatively, if a permittee, currently covered under the general permit, seeks coverage under an individual or alternative NPDES permit and is

denied, coverage under the general permit is terminated on the date of such denial, unless otherwise specified by ADEQ.

IIX. Penalties for Violation of Permit Conditions (Part VI of the DGP)

This part advises the regulated community of the appropriate legal authorities and potential penalties for non-compliance with this permit.

IX. Definitions (Part VII of the DGP)

The permit contains definitions of statutory, regulatory and other terms important for understanding the permit and its requirements.